

SENATE, No. 2636

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Concerns accomplice liability of law enforcement officers who fail to de-escalate and intervene when another officer commits offense.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning de-escalation and law enforcement officer
2 complicity, supplementing Title 52 of the Revised Statutes, and
3 amending N.J.S.2C:2-6.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. The Department of Law and Public Safety
9 shall develop or identify uniform law enforcement de-escalation and
10 intervention training course materials. These materials shall be
11 made available in the form of an online tutorial. The course
12 materials also shall include instruction on how to use
13 communication techniques to defuse potentially dangerous
14 situations and provide law enforcement officers with strategies to
15 calmly deal with people who are experiencing mental and emotional
16 crises.

17 b. Every law enforcement officer shall receive four hours of in-
18 service training on de-escalation and intervention required by this
19 section every three years.

20 c. For the purposes of this section, “de-escalation” means the
21 strategic slowing down of an incident in a manner that allows
22 officers more time, distance, space, and tactical flexibility during
23 dynamic situations on the street.
24

25 2. N.J.S.2C:2-6 is amended to read as follows:

26 2C:2-6 a. A person is guilty of an offense if it is committed by
27 his own conduct or by the conduct of another person for which he is
28 legally accountable, or both.

29 b. A person is legally accountable for the conduct of another
30 person when:

31 (1) Acting with the kind of culpability that is sufficient for the
32 commission of the offense, he causes an innocent or irresponsible
33 person to engage in such conduct;

34 (2) He is made accountable for the conduct of such other person
35 by the code or by the law defining the offense;

36 (3) He is an accomplice of such other person in the commission
37 of an offense; or

38 (4) He is engaged in a conspiracy with such other person.

39 c. A person is an accomplice of another person in the
40 commission of an offense if:

41 (1) With the purpose of promoting or facilitating the
42 commission of the offense; he

43 (a) Solicits such other person to commit it;

44 (b) Aids or agrees or attempts to aid such other person in
45 planning or committing it; or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (c) Having a legal duty to prevent the commission of the
2 offense, fails to make proper effort so to do; or
3 (2) His conduct is expressly declared by law to establish his
4 complicity.
5 d. A person who is legally incapable of committing a particular
6 offense himself may be guilty thereof if it is committed by another
7 person for whose conduct he is legally accountable, unless such
8 liability is inconsistent with the purpose of the provision
9 establishing his incapacity.
10 e. Unless otherwise provided by the code or by the law defining
11 the offense, a person is not an accomplice in an offense committed
12 by another person if:
13 (1) He is a victim of that offense;
14 (2) The offense is so defined that his conduct is inevitably
15 incident to its commission; or
16 (3) He terminates his complicity under circumstances
17 manifesting a complete and voluntary renunciation as defined in
18 section 2C:5-1 d. prior to the commission of the offense.
19 Termination by renunciation is an affirmative defense which the
20 defendant must prove by a preponderance of evidence.
21 f. An accomplice may be convicted on proof of the commission
22 of the offense and of his complicity therein, though the person
23 claimed to have committed the offense has not been prosecuted or
24 convicted or has been convicted of a different offense or degree of
25 offense or has an immunity to prosecution or conviction or has
26 been acquitted.
27 g. For the purposes of this section, a law enforcement officer is
28 deemed to have the duty to prevent the commission of an offense by
29 another law enforcement officer by deescalating and intervening in
30 a confrontation between the other law enforcement officer and a
31 person. A law enforcement officer who fails to make the proper
32 effort to de-escalate and intervene in the commission of an offense
33 by another law enforcement officer against the person is an
34 accomplice to that offense pursuant to subsection c. of this section.
35 (cf: N.J.S.2C:2-6)

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37 3. This act shall take effect immediately.
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40 STATEMENT 41

42 This bill requires de-escalation and intervention training for law
43 enforcement officers in this State and establishes accomplice
44 liability when law enforcement officers fail to de-escalate and
45 intervene when another law enforcement officer commits an
46 offense.

47 Current law provides that a person can be guilty of an offense
48 committed by another person under certain circumstances, such as

1 by being an accomplice. A person is an accomplice when he or she
2 has a legal duty to prevent the commission of a crime, but fails to
3 make the proper effort to prevent the commission of that crime.

4 The bill specifically requires every law enforcement officer in
5 this State to receive four hours of in-service training on de-
6 escalation and intervention every three years.

7 Under the bill, a law enforcement officer is deemed to have the
8 duty to prevent the commission of an offense by another law
9 enforcement officer by deescalating and intervening in a
10 confrontation between the other law enforcement officer and a
11 citizen. The bill specifies that a law enforcement officer who fails
12 to make the proper effort to de-escalate and intervene in the
13 confrontation is an accomplice to the offense committed by the
14 other officer.

15 This bill is intended to make criminally culpable those law
16 enforcement officers at a scene of a confrontation between a law
17 enforcement officer and a citizen who do not intervene to prevent
18 the other officer from committing a crime against that citizen.